MT LEGISLATIVE HISTORY

Chapter 363 1975

Bill H _____ S 201 Original bill & hist. ___C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Mar 18	✓C	Hearing Date(s) Jan 31	✓C
Mar 21	✓C	Feb 04	✓C
_____	___C	Feb 20	✓C
_____	___C	_____	___C
Date Out Mar 21	✓C	Feb 20	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate BILL NO. 201

INTRODUCED BY Turnage

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION TO AND DISTRIBUTION OF ESTATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 91A-2-102, R.C.M. 1947, is amended to read as follows:

"91A-2-102. Share of spouse. The intestate share of the surviving spouse is:

(1) if there is no surviving issue, the entire intestate estate;

(2) ~~if there are surviving issue all of whom are issue of the surviving spouse also, the first fifty thousand dollars ($50,000), plus one-half (1/2) of the balance of the intestate estate~~ if there is surviving only one (1) child, or the issue of one (1) child, one-half (1/2) of the intestate estate;

(3) ~~if there are surviving issue one (1) or more of whom are not issue of the surviving spouse, one-half (1/2) of the intestate estate;~~ if there are surviving more than one (1) child, or one (1) child and the issue of one (1) or more deceased children, one-third (1/3) of the intestate estate."

Section 2. Section 91A-2-103, R.C.M. 1947, is amended to read as follows:

"91A-2-103. Share of heirs other than surviving spouse. The part of the intestate estate not passing to the surviving spouse under section 91A-2-102, or the entire intestate estate if there is no surviving spouse, passes as follows:

(1) to the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(2) if there are surviving several children, or one (1) child, and the issue of one (1) or more children, and any such surviving child dies under age, and not having been married, all the estate that came to such deceased child by inheritance from the decedent, in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by representation; and if, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, to the issue of all other children of the same parent; and if all the issue are in the same degree of kinship to such child, they take equally, but if of unequal degree then those of more remote

INTRODUCED BILL

SB 201

degree take by representation;

~~(2)~~ (3) if there is no surviving issue, to his parent or parents equally;

~~(3)~~ (4) if there is no surviving issue or parent, to the brothers and sisters and the ~~issue of each deceased brother or sister by representation, if there is no surviving brother or sister, the issue of brothers and sisters take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree then those of more remote degree take by representation~~ children or grandchildren of any deceased brother or sister, by representation;

~~(4) if there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation, and the other half passes to the maternal relatives in the same manner, but if there be no surviving grandparent or issue of grandparent on either the paternal or the maternal side, the entire estate passes to the relatives on the other side in the same manner as the~~

~~half;~~

(5) if there is no surviving issue, parent, ~~or issue of a parent, grandparent or issue of a grandparent,~~ brother, sister, or children or grandchildren of a deceased brother or sister, ~~the estate passes~~ to the next of kin, in equal degree, except that where there are two (2) or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearer ancestors must be preferred to those claiming through an ancestor more remote."

-End-

JUDICIARY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 201	And act to amend sections relating to succession to and distribution of estates.	2/26/75	Turnage	3/18/75	BE CONCURRED IN	3/21/75
SB 250	An act for the revision of the laws relating to obscenity and indecent exposure.	2/26/75	Thiessen	3/20/75	AS SO AMENDED BE CONCURRED IN	3/21/75
SB 314	An act to provide a cause of action for damages where there has been a violation of rights protected by 4th amendment of constituion of U.S., etc.	2/26/75	Brown	3/14/75	BE NOT CONCURRED IN AS SO AMENDED BE CONCURRED IN	3/14/75 3/20/75
SB 112	An amending act to increase the minimum proof of finan cial responsibility from $10,000 to $25,000 because of bodily injury to or death of one person in any one, etc.	2/27/75	Devine	3/15/75	BE CONCURRED IN	3/21/75
SB 154	An amending act relating to the judges' retirement system and redefining "final salary"	2/27/75	Towe	3/12/75	BE CONCURRED IN	3/12/75
SB 221	No-fault insurance	2/28/75	Drake	3/15/75	Be held in Committee AS SO AMENDED BE CONCURRED IN	3/21/75 3/26/75

JUDICIARY COMMITTEE

March 13, 1975

The sixty-ninth meeting of the House Judiciary Committee was called to order in Room 436 of the Capitol Building at Helena, Montana, on Tuesday, March 18, 1975, at 9:00 AM. Representative Herb Huennekens, Chairman, presided. All members were present except Representatives Scully and Vincent, absent, excused.

Bills scheduled for hearing this date were Senate Bills Nos. 93, 201, 274 and 123, taken in this order.

EXECUTIVE SESSION

No Senators were present as sponsors so while waiting the committee moved into executive session.

SENATE BILL NO. 103 Senator Regan introduced this act to require that an inquest be held in situations where a death occurs in a jail or penal institution, or where death results from the use of a firearm by a peace officer.

Representative Meloy moved that the bill BE CONCURRED IN. He explained that under the existing law the county attorney determines if an inquest is made. This bill makes inquest mandatory under certain circumstances. The motion carried unanimously.

SENATE BILL NO. 93 Senator Jean A. Turnage, District #13, is chief sponsor of this act to revise tax appeals procedures by providing for the reception of additional evidence on judicial review, the assessment of costs on certain appeals and interlocutory adjudications. He apologized for being late and stated that although this bill was not requested per se by the Internal Revenue Department it arose from discussion with them. It proposes two changes in the present law. The first change is on page 2, subsection (3), which gives the appellate court discretion for showing good cause when state tax matters are brought into district court. It requires certain things be in the report. The second change in the law is section 2 on page 2, which allows both taxpayer and Department of Revenue to seek an interlocutory judicial decision review. It allows a shortcut to the court on agreement of all parties.

Proponent Ken Morrison, representing the Department of Revenue, stated they support this bill; it will relieve them of a large number of duplications of cases.

No other proponents were present, and there were no opponents. Senator Turnage waived closing. Representative Anderson questioned if going directly to court occurs often, to which Senator Turnage replied, no, you have to have agreement on both sides.

Chairman Huennekens pointed out that the title, lines 7 and 8, should be deleted because subsection (4) on page 2 is struck.

Upon questioning, Representative Moore was advised by Senator Turnage the reason for striking subsection (4) is because if it is allowed to stand it would become very expensive. It would be like Marley's ghost. He would prefer that it not be reinstated. The hearing was then closed.

SENATE BILL NO. 201 Senator Turnage is chief sponsor of this act to amend a section of the code relating to succession to and distribution of estates. He stated this is an amendment to the Uniform Probate Code which started out and still does return the law of intestate succession to the books.

Proponent Frances C. Elge, Administrative Law Judge, testified in favor of the bill (see prepared statement). No other proponents were present, and there were no opponents.

Senator Turnage stated he would close on reliance that Mrs. Elge could answer questions. Following very brief questioning, the hearing was closed.

SENATE BILL NO. 274 Senator Thomas E. Towe, District #34, is chief sponsor of this act authorizing the creation of community-based centers for rehabilitating criminal offenders. He stated this bill is one of those closest to him. He said the reason for opposition to the new prison was that we would stop worrying about criminal reform. An important part of criminal law reform is to do something about someone who is institutionalized. He feels there should be a structured atmosphere while an ex-convict is getting oriented back into the community. The first few weeks are a very crucial time. At the present time, higher than 50% return to prison. The bill states what these facilities shall offer. The bill is designed to make maximum use of facilities already available. It also establishes the board members who are primarily controlled by the Board of Pardons. Page 5 sets up qualifications for appointment of personnel. Subsection (4) put in on page 6 by the Senate Judiciary Committee is a good amendment.

Proponent Bobby Miles, representing the Board of Pardons, stated they support this bill. Past experience of the Board constitutes supervising adults on parole and probation. This bill meets the concept urged by district judges and others. They have instituted in their budget provisions for this bill, though the money is no longer available.

Proponent Gene Luer, representing the Rocky Mountain Development Council, stated this bill provides latitude. During the two and one-half years they operated the Waylet project, which was similar to the intent of this bill, they had only a 20% recidivism rate.

STATEMENT FOR SENATE BILL NO. 201, FORTY-FOURTH LEGISLATIVE ASSEMBLY, STATE OF MONTANA, by Frances C. Elge, Administrative Law Judge, Office of Hearings and Appeals, U. S. Department of the Interior.

Enactment of Senate Bill No. 201 will retain Montana's present provisions for intestate succession, rather than substitute therefor the provisions of the Uniform Probate Code which would become effective July 1, 1975. Our present succession laws have stood the test of time for distributing intestate estates of Montanans.

Proposed §§ 91A-2-102 and 91A-2-103 incorporate the provisions of § 91-403, Revised Codes of Montana, 1947. A copy of § 91-403, as amended to date, is marked Exhibit 1, is attached hereto, and by this reference, made a part hereof.

The provisions of § 91-403 are recrouched into two sections to conform with the format of the Uniform Probate Code. To make the provisions of subsections 5 and 6 more understandable, they have been combined into subsection (2) of § 91A-2-103, a more logical positioning and statement of the law.

JUSTIFICATION: Subsection (2) of § 91A-2-102 (Uniform Probate Code) reads, with respect to the share of a spouse:

"(2) if there are surviving issue, all of whom are issue of the surviving spouse also, the first fifty thousand dollars

($50,000), plus one-half (1/2) of the balance of the intestate estate."

The part of the intestate estate not passing to the spouse, under § 91A-2-102, passes "(1) to the issue of the decedent; if they are all in the same degree of kinship to the decedent, they take equally, but if of unequal degree, then those of more remote degree take by representation."

If an estate consists primarily of land, such as in an Indian trust estate, the surviving spouse's share must be computed by subtracting $50,000 from the total value, dividing the remainder, and adding half the remainder to the $50,000. That sum becomes the numerator and the value of the estate becomes the denominator for computing the surviving spouse's share.

The issue then receive their fractional interests of the remaining "half of the balance."

Exhibit 2, attached hereto, is an actual Indian estate with the formulae of §§ 91A-2-102(2) and 91A-2-103(1) applied.

Montana has seven Indian reservations, six of which have lands allotted to individual Tribal members. Interests in the allotments already are fractionated by having descended through series of estates. With estates to which "the first $50,000, plus half the balance" provisions must be applied, the administrative work in computing ownership of the lands will be difficult to comprehend and surmount.

Some attorneys with whom I have discussed this provision [§ 91A-2-102(2)] foresee difficulty in estates where landed interests are involved. What of an abrasive family situation where accuracy of appraisal becomes an issue?

~~Are we not also unduly discriminating against a second~~ spouse in a situation where, for example, the first spouse died very young survived by issue and there was then a second marriage of many years; in that situation the spouse of years, who may have also shared parenthood with the deceased, would receive property under subsection (3) of § 91A-2-102. The same would be true in the situation of an unfortunate first marriage ending in a divorce, where there was a child.

Most intestate estates in Montana are under $50,000 in value. Under § 91A-2-102(2), unamended, all of such a small estate would vest in a surviving spouse, nothing going to children.

What of the case where a spouse becomes disenchanted and deserts the family? Suppose that the deserted spouse, for religious or other reasons does not obtain a divorce; dies, survived by the errant spouse and four minor children; and possessed of a $50,000 estate. Under the provisions of § 91A-2-102(2), the spouse who deserted would take the whole estate; the children would ~~receive nothing.~~

California has retained the provisions set forth, proposed §§ 91A-2-102(3) and (4) and 91A-2-103(1), in estates where

a deceased is survived by a spouse and issue. Wesley A. Mutten, III, Esq., of Los Angeles, a member of the American Bar Association's Committee on Real Property, Probate, and Trust Law, has advised me that he anticipates no change in the foreseeable future.

Under Sentate Bill No. 201, subsection (3) of § 91A-2-103 is renumbered as subsection (4) and cuts off inheritance from brothers and sisters with "grandchildren of any deceased brother or sister . . ." rather than extending such inheritance to "issue" of brothers or sisters without limitation.

Subsection (4) of § 91A-2-103, under Senate Bill No. 201, would be stricken. Subsection (5) would be amended to conform with the striking out of subsection (4).

JUSTIFICATION FOR STRIKING OUT SUBSECTION (4) AND AMENDING SUBSECTION (5): It is conceivable that under the present subsection (4), descendants of grandparents could be as remote as first cousins three times removed--7th degree from the deceased, a degree farther removed than second cousins who might be next of kin under the present subsection (5).

Additionally, making descendants of grandparents heirs, ad infinitum, invites a bureau of missing persons search. Attached Exhibit 3 is the record in a Washington estate under a like provision of the Washington Code. Note that there were 26 heirs, fractionating one estate to a common denominator of 540. Please also note that we compiled eight pages of family data to be

assured of including all heirs. And we had descendants only of the maternal grandparents.

Exhibit 4, attached hereto is a copy of the sections as they will read if Senate Bill No. 201 is enacted; Exhibit 5, also attached, is a chart showing relationships and degrees of kindred.

Frances C. Elgin

SENATE BILL NO. 112 Senator Devine is chief sponsor of this act to increase the minimum proof of financial responsibility from ten thousand dollars to twenty-five thousand dollars.

A motion of BE CONCURRED IN by Representative Baeth was seconded by Representative Seifert. Representative Lester stated this bill doesn't tie in with his bill which presently is in the Senate Judiciary and that it can go through without his bill. He stated he supports the motion.

Motion BE CONCURRED IN carried unanimously.

SENATE BILL NO. 78 Senator Greely is chief sponsor of this measure regulating financial support of candidates. Following brief discussion, the decision was made to defer action on this bill until more input can be obtained.

SENATE BILL NO. 123 Senator Roberts is chief sponsor of this act to provide definitions of sexual crimes by adding a definition of the term "without consent". Representative Lory moved BE CONCURRED IN. Motion carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 93 Senator Turnage is chief sponsor of the act to revise tax appeals procedures and establishing provisions for so doing. Representative Moore stated he feels this is a fairly innocuous bill and moved to amend in the title, line 7, by striking "the assessment of costs on certain appeals, and interlocutory adjudications". Following brief discussion, a motion to amend carried unanimously.

Motion by Representative Moore of BE CONCURRED IN AS AMENDED carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 201 Senator Turnage is chief sponsor. Chairman Huennekens stated the sole intent of the bill is to clarify interstate problem with third degree heirs. Frances Elge testified on this.

A motion by Representative Rasmussen of BE CONCURRED IN carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

Time ran out and the meeting adjourned at 11:15 a.m.

Herb Huennekens

Representative Herb Huennekens
Chairman

HH:pb

STANDING COMMITTEE REPORT

BE CONCURRED IN March 21, 1975

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 201

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION TO AND DISTRIBUTION OF ESTATES."

Respectfully report as follows: That SENATE Bill No. 201

BE CONCURRED IN

[redacted]

HH:pb

STATE PUB. CO.
Helena, Mont.

HERB HANNEKENS, CHAIRMAN Chairman.

44th LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
181	1/23/75	1/31/75	2/21/75		2/21/75				
189	1/23/75	2/4/75	2/10/75			2/10/75			
201	1/24/75	1/31/75	2/20/75	w/o recomend 2/20/75					
204	1/24/75	2/12/75	2/21/75	2/21/75					
205	2/19/75	2/22/75	2/22/75		2/22/75				
206	1/24/75	2/3/75	2/13/75		2/12/75				
206	2/15/75	2/24/75	2/26/75			2/24/75			
212	2/10/75	2/13/75	2/21/75			2/21/75			
219	1/24/75	2/6/75	2/25/75	2/24/75					
221	2/10/75	2/20/75	2/24/75			2/22/75			
223	1/27/75	2/14/75	2/26/75			2/24/75			
226	1/27/75	2/6/75	died in committee						
228	1/27/75	2/5/75	2/10/75			2/8/75			
249	1/27/75	2/10/75	2/21/75		2/21/75				
262	1/27/75	2/7/75	2/10/75		2/10/75				
268	2/10/75	2/14/75	2/25/75			2/24/75			
270	2/17/75	2/21/75	2/21/75		2/21/75				

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
JANUARY 31, 1975

The meeting was called to order by Senator Towe, Chairman at 9:43 a.m. in Room 442 of the Capitol Building.

The following bills were heard: SB 181
SB 201

SB 181 Senator Turnage, District 13 and sponsor of the bill, asked Miss Frances Elge, Administrative Law Judge, Office of Hearings and Appeals, U.S. Department of Interior, to explain the bill to the Committee. Her testimony is attached.

SB 201 Senator Turnage, District 13, and sponsor of the bill, asked Miss Elge to explain the bill to the Committee.

Tom Stoll, Chief of the Inheritance Tax Bureau, Department of Revenue, spoke in support of both SB 181 and 201, stating at present, inheritance taxes are higher than they would be under this bill. This bill would lower them by approximately 50 % in many cases.

The public hearing was closed and the Committee went into Executive Session.

Senator Roberts asked to be allowed to send both bills to Bjarney Johnson, Great Falls, who served on the National Uniform Probate Code Commission for his review and input. The Committee supported the suggestion.

There being no further business, the meeting adjourned to reconvene Saturday, February 1, 1975, at 9:30 a.m.

Thomas E. Towe
CHAIRMAN

BEFORE THE SENATE JUDICIARY COMMITTEE, FORTY-FOURTH LEGISLATURE, HAVING UNDER CONSIDERATION SENATE BILL NO. 201

STATEMENT OF FRANCES C. ELGE, Administrative Law Judge, Office of Hearings and Appeals, U. S. Department of the Interior.

Enactment of Senate Bill No. 201 will retain Montana's present provisions for intestate succession, rather than substitute therefor the provisions of the Uniform Probate Code which would become effective July 1, 1975. Our present succession laws have stood the test of time for distributing intestate estates of Montanans.

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($50,000), plus one-half (1/2) of the balance of the intestate estate."

The part of the intestate estate not passing to the spouse, under § 91A-2-102, passes "(1) to the issue of the decedent; if they are all in the same degree of kinship to the decedent, they take equally, but if of unequal degree, then those of more remote degree take by representation."

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Some attorneys with whom I have discussed this provision [§ 91A-2-102(2)] foresee difficulty in estates where landed interests are involved. What of an abrasive family situation where accuracy of appraisal becomes an issue?

Are we not also unduly discriminating against a second spouse in a situation where, for example, the first spouse died very young survived by issue and there was then a second marriage of many years; in that situation the spouse of years, who may have also shared parenthood with the deceased, would receive property under subsection (3) of § 91A-2-102. The same would be true in the situation of an unfortunate first marriage ending in a divorce, where there was a child.

Most intestate estates in Montana are under $50,000 in value. Under § 91A-2-102(2), unamended, all of such a small estate would vest in a surviving spouse, nothing going to children.

What of the case where a spouse becomes disenchanted and deserts the family? Suppose that the deserted spouse, for religious or other reasons does not obtain a divorce; dies, survived by the errant spouse and four minor children; and possessed of a $50,000 estate. Under the provisions of § 91A-2-102(2), the spouse who deserted would take the whole estate; the children would receive nothing.

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a deceased is survived by a spouse and issue. Wesley A. Nutten, III, Esq., of Los Angeles, a member of the American Bar Association's Committee on Real Property, Probate, and Trust Law, has advised me that he anticipates no change in the foreseeable future.

Under Senate Bill No. 201, subsection (3) of § 91A-2-103 is renumbered as subsection (4) and cuts off inheritance from brothers and sisters with "grandchildren of any deceased brother or sister . . ." instead of having such inheritance extend to "issue" of brothers or sisters ad infinitum.

Subsection (4) of § 91A-2-103, under Senate Bill No. 201, would be stricken. Subsection (5) would be amended to conform with the striking out of subsection (4).

JUSTIFICATION FOR STRIKING OUT SUBSECTION (4) AND AMENDING SUBSECTION (5): It is conceivable that under the present subsection (4), descendants of grandparents could be as remote as cousins three times removed--7th degree from the deceased, a degree farther removed than second cousins who might be next of kin under the present subsection (5).

Additionally, making descendants of grandparents ad infinitum heirs invites a bureau of missing persons search. Attached Exhibit 3 is the record of a Washington estate under a like provision of the Washington Code. Note that there were 26 heirs, fractionating one estate to a common denominator of 540. Please also note that we compiled eight pages of family data to be

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Frances C. Elgin

Section 91-403, R.C.M.1947

"*Succession to and distribution of estates.* When any person having title to any estate not limited by marriage contract dies without disposing of the estate by will, it is succeeded to and must be distributed, unless otherwise expressly provided by the laws of Montana, subject to the payment of his debts, in the following manner:

"1. If the decedent leaves a surviving husband or wife, only one (1) child, or the lawful issue of one (1) child, in equal shares to the surviving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one (1) child living, or one (1) child living, and the lawful issue of one (1) or more deceased children, one-third (⅓) to the surviving husband or wife, and the remainder in equal shares to his children, and to the lawful issue of any deceased child, by right of representation; but if there be no child of the decedent living at his death, the remainder goes to all his lineal descendants; and if all the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue; and if such issue consists of more than one (1) child living, or one (1) child living, and the lawful issue of one (1) or more deceased children, then the estate goes in equal shares to the children living, or to the child living, and the issue of the deceased child or children by right of representation.

"2. If the decedent leaves no issue, the whole of the estate shall go to the surviving husband or wife. If the decedent leaves no issue, nor husband nor wife, the estate must go to the father and mother in equal shares, or if either be dead then to the other.

"3. If there be neither issue, husband, wife, father, nor mother, then in equal shares to the brothers and sisters of the decedent, and to the children or grandchildren of any deceased brother or sister, by right of representation.

"4. If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate goes to the next of kin, in equal degree, excepting that where there are two (2) or more collateral kindred, in equal degree, but claiming through different ancestors, those who claimed through the nearest ancestors must be preferred to those claiming through an ancestor more remote.

"5. If the decedent leaves several children, or one (1) child, and the issue of one (1) or more children, and any such surviving child dies under age, and not having been married, all the estate that came to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation.

"6. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation.

"7. If the decedent leaves no husband, wife, or kindred, the estate escheats to the state."

Exhibit No. 1

IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Administrative Law Judge
c/o Bureau of Indian Affairs
Billings, Montana 59101

Heirship in the estate of Dora Victoria Blackboy Edwards, deceased Allottee 2/34 of the Blackfeet Indian Reservation in Montana, under the first $50,000 provision:

John Edwards, Blackfeet Allottee 626, husband,	66,769/83,538 or	1,468,918/1,837,836
Robert F. Edwards, unallotted Blackfeet U-4969, son,	16,769/918,918 or	33,538/1,837,836
June Edwards Runningfisher, unal. Blackfeet U-4970, daughter,	16,769/918,918 or	33,538/1,837,836
Donna Marie Edwards Conway, unal. Blackfeet U-5799, daughter,	16,769/918,918 or	33,538/1,837,836
Shirley Mae Edwards Tatsey Burton, unallotted Blackfeet U-6466, daughter,	16,769/918,918 or	33,538/1,837,836
Ellen Rose Edwards, unallotted Blackfeet U-6853, daughter,	16,769/918,918 or	33,538/1,837,836
John George Edwards, Jr., unal. Blackfeet U-7692, son,	16,769/918,918 or	33,538/1,837,836
Audra Faye Edwards, unallotted Blackfeet U-9096, daughter,	16,769/918,918 or	33,538/1,837,836
Barbara Jean Edwards, unallotted Blackfeet U-9369, daughter,	16,769/918,918 or	33,538/1,837,836
Victoria Ann Edwards, unallotted Blackfeet U-8499, daughter,	16,769/918,918 or	33,538/1,837,836
Gilbert David Edwards, unallotted Blackfeet U-10,563, son,	16,769/918,918 or	33,538/1,837,836
Douglas G. Bearchild, unallotted Blackfeet U-7301, grandson,		16,769/1,837,836
Sharon Lee (Sandra) Bearchild, unallotted Blackfeet U-7598, granddaughter,		16,769/1,837,836

SEE ATTACHED WORK SHEET.

Exhibit 7

ESTATE OF DORA VICTORIA BLACKBOY EDWARDS

			Total value		$ 83,538
Share of spouse -1st	$ 50,000				50,000
					2/33,538
Plus half the balance	16,769				16,769
DISTRIBUTION:					
John Edwards,	husband,	66,769/83,538		or	1,468,918/1,837,836
Robert F. Edwards,	son, 1/11	X 16,769/83,538	or 16,769/918,918	or	33,538/1,837,836
June Edwards,	dau.,		16,769/918,918		do.
Donna Marie Edwards,	dau.,		do.		do.
Shirley Mae Edwards,	dau.,		do.		do.
Ella Rose Edwards,	dau.,		do.		do.
John Edwards, Jr.,	son,		do.		do.
Audra Faye Edwards,	son,		do.		do.
Barbara Jean Edwards,	dau.,		do.		do.
Victoria Ann Edwards,	dau.		do.		do.
Gilbert David Edwards,	son,		do.		do.
Douglas G. Bearchild, grandson,	1/22	X 16,769/83,538	or		16,769/1,837,836
Sharon Lee Bearchild, granddaughter,					do.

IN REPLY REFER TO:

United States Department of the Interior

PROBATE
IP BI 038A 72

OFFICE OF HEARINGS AND APPEALS
Administrative Law Judge
c/o Bureau of Indian Affairs
Billings, Montana 59101

IN THE MATTER OF THE ESTATE OF :
PIERRE (PETER) BIGSMOKE, DECEASED :
ALLOTTEE 17 OF THE KALISPEL :
INDIAN RESERVATION IN WASHINGTON :

ORDER DETERMINING HEIRS

The matter of determining the heirs of Pierre (Peter) Bigsmoke, hereinafter referred to as Pierre Bigsmoke, deceased Allottee 17 of the Kalispel Indian Reservation in Washington, coming of for consideration before the Administrative Law Judge, Office of Hearings and Appeals, United States Department of the Interior, Billings, Montana, and the following findings having been made:

Pierre Bigsmoke died intestate on June 21, 1971, at the age of 60 years, possessed of trust real property in the State of Washington. He was not survived by a wife or issue.

The decedent was born on July 4, 1910, the son of Baptiste Bigsmoke, Kalispel Allottee 16, and Lucy Oyackena Bigsmoke, Spokane Allottee 58. When he was about two years old, he was adopted by John Pierre, Kalispel Allottee 65, and Louise Bigsmoke Pierre, Kalispel Allottee 66, by Indian custom. John Pierre died on August 16, 1938. Pierre Bigsmoke, the decedent in this case, inherited in the estate of John Pierre as an adopted son, Probate 66966-39.

By reason of Pierre Bigsmoke's recognition as an adopted son of John and Louise Pierre by the Department of the Interior in the distribution of the estate of his adoptive father John Pierre, Pierre Bigsmoke was recognized as the adopted son and sole heir of Louise Pierre, who died in 1955, Probate 8873-55.

The holding in the Louise Pierre estate was in accordance with the act of July 8, 1940 (effective January 8, 1941), 54 Stat. 746, 25 U.S.C. § 372a, which in pertinent portion, reads:

> In probate matters under the exclusive jurisdiction of the Secretary of the Interior, no person shall be recognized as an heir of a deceased Indian by virtue of an adoption --
>
> * * *
>
> (2) Unless such adoption shall have been recognized by the Department of the Interior

Exhibit 3

prior to the effective date of this section or in the distribution of the estate of an Indian who has died prior to that date . . .

Section 26.32.140, Effect of decree of adoption, Revised Code of Washington Annotated (1967), in pertinent portion, reads:

> By a decree of adoption the natural parents shall be divested of all legal rights and obligations in respect to the child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of his or her adopter or adopters, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock. An adopter or adopters and the spouse of an adopted child, and their respective kin, shall have the rights of inheritance from such child prescribed by the statutes of descent and distribution for natural parents, spouse, and their respective kin to the exclusion of the adopted child's natural parents and kin and any prior adopted [adopter] or adopters and their kin. . .

Under this section, Pierre Bigsmoke's adoptive kin are heirs.

Pierre Bigsmoke was not survived by adoptive parents, or by any adoptive grandparent or grandparents. There is no available record or evidence with respect to the decedent's adoptive paternal grandparents or any brothers or sisters, or issue of brothers or sisters, of his adoptive father. Accordingly, under § 11.04.015(e), Revised Code of Washington Annotated (1967), as amended, his estate vested in the issue of his adoptive maternal grandparents who survived him. Since some are of unequal degree, those of more remote degree take their shares by representation, as defined by § 11.02.005(3), R.C.W. (1967).

NOW, THEREFORE, by virtue of the power and authority vested in the Secretary of the Interior by § 1 of the act of June 25, 1910 (25 U.S.C. § 372), and other applicable statutes, and pursuant to

43 CFR Part 4, I hereby find that the heirs of said decedent, determined in accordance with §§ 11.04.015(e), 11.04.081, 11.02.005(3), 26.32.140, Revised Code of Washington Annotated (1967), and their respective shares in decedent's estate are:

Catherine Pierre Frye, Kalispel
Allottee 29, adoptive first cousin, 1/6 or 90/540
John Ignace, unallotted Kalispel
N-1007, adoptive first cousin twice removed, 1/36 or 15/540
Nancy Rose Ignace Nick, unal.
Kalispel N-1008, adoptive first cousin twice removed, 1/36 or 15/540
Nellie Ignace Gorneau or Gourneau Totter,
unallotted Kalispel
N-1009, adoptive first cousin twice removed, 1/36 or 15/540
Annie Ignace Meahell, Kalispel
Allottee 48, adoptive first cousin once removed, 1/12 or 45/540
Mary Susan Isadore Nenema,
Kalispel Al. 41, adoptive first cousin once removed, 1/18 or 30/540
Marie Isadore Andrews, unal.
Colville N-4573, adoptive first cousin twice removed, 1/54 or 10/540
Duane Paul Isadore, unallotted
Kalispel N-1021, subsequently
deceased, adoptive first cousin twice removed, 1/54 or 10/540
Norma Eugenia (Jean) Isadore,
unallotted Kalispel
N-1022, adoptive first cousin twice removed, 1/54 or 10/540
Patrick Isadore, unallotted
Kalispel N-1011, adoptive first cousin once removed, 1/18 or 30/540
Harry Henry Campbell, unal.
Spokane N-1573, adoptive first cousin twice removed, 1/270 or 2/540
Elaine Matilda Campbell Fanning,
unallotted Spokane
N-1574, adoptive first cousin twice removed, 1/270 or 2/540
Ida Marie Campbell Gilbert,
unallotted Spokane
N- 1575, adoptive first cousin twice removed, 1/270 or 2/540
Gordon Michael Campbell,
unallotted Spokane
N-1576, adoptive first cousin twice removed, 1/270 or 2/540
Jeannette Campbell Tellinghuisen,
unallotted Spokane
N-1577, adoptive first cousin twice removed, 1/270 or 2/540
Judy Agnes Campbell,
unallotted Spokane
N-1578, adoptive first cousin twice removed, 1/270 or 2/540

Roger Allen Campbell, unal.
Spokane N-1579, adoptive first cousin twice removed, 1/270 or 2/540
Gary Wayne Campbell, unal.
Spokane N-1580, adoptive first cousin twice removed, 1/270 or 2/540
Patricia Ann Campbell,
unallotted Spokane
N-1581, adoptive first cousin twice removed, 1/270 or 2/540
Margaret Mary Bigsmoke Finley,
unallotted Flathead
U-4661, adoptive first cousin twice removed, 1/30 or 18/540
Louise Garrick Becker,
unallotted Kalispel
N-1010, adoptive first cousin twice removed, 1/90 or 6/540
Clara Finley Brown, unenrolled
Flathead N-5064, subsequently
deceased, adoptive first cousin twice removed, 1/90 or 6/540
Donald Eugene Matt, unallotted
Kalispel N-1055, adoptive first cousin twice removed, 1/90 or 6/540
James John Bigsmoke, unal.
Kalispel N-1026, adoptive first cousin twice removed, 1/60 or 9/540
Genevieve Marie Bigsmoke,
unallotted Flathead
U-4464, adoptive first cousin twice removed, 1/60 or 9/540
Hazel Emma Bigsmoke Hunter,
Kalispel Al. 95, adoptive first cousin once removed 1/30 or 18/540
Alice Elizabeth Ignace,
Kalispel Al. 38, adoptive first cousin once removed, 1/12 or 45/540
Susan Ignace Finley,
unallotted Kalispel
N-1006, adoptive first cousin once removed, 1/12 or 45/540
Adeline Tom Nomee,
Kalispel Al. 108, adoptive first cousin once removed, 1/6 or 90/540

The Data for Heirship Finding and Family History in the record in this estate contains the birthdates of the decedent's heirs. Said document is by this reference made a part hereof.

Under 43 CFR 4.251 (a), the claim of Mrs. Hazel Hunter, P. O. Box 91, Usk, Washington 99180, for funeral expenses, hereby is allowed and shall be paid, after payment of the probate fee, from funds now held or hereafter accruing to the credit of this estate, subject to

the limitation provided that no payment thereon shall be made from income accruing to this estate after seven years from the date of allowance, as to the PREFERRED PORTION, and three years from the date of allowance as to the GENERAL CREDITOR'S PORTION, as follows:

1. $500.00 - PREFERRED PORTION

2. 298.75 - GENERAL CREDITOR'S PORTION

The inventory and appraisement of trust real property belonging to this estate is attached hereto and by this reference, made a part hereof.

The estate of said decedent subject to the jurisdiction of this Department having been valued at $22,194.27, a fee of $75.00 shall be collected by the Superintendent or other officer in charge, pursuant to the act of January 24, 1923 (25 U.S.C. § 377).

Done at Billings, Montana, January 11, 1973.

Frances C. Elge

Frances C. Elge
Administrative Law Judge

MATERNAL (BIGSMOKE) KINDRED

Grandfather - Mark or Michael Bigsmoke
Grandmother - Felicity Bigsmoke

1. Louise Bigsmoke Pierre, Kalispel Allottee 66, adoptive mother
   b. 6-15-1866 d. 12-3-52 Probate 8873-55

   John Pierre, Kalispel Allottee 65, adoptive father
   b. 11-16-1872 d. 8-16-38 Probate 66966-39

      Pierre (Peter) Bigsmoke, Kalispel Allottee 17, DECEDENT
      b. 7-4-10 d. 6-21-71 Probate IP BI 038A 72

2. Martina (Madeline, Multeen) Bigsmoke Pierre, Kalispel Allottee 64
   b. 1829 d. 6-7-37 Probate 77180-39

   Pierre, unallotted Kalispel, first husband

   (1) Catherine Pierre Frye, Kalispel Allottee 29
      b. 4-18-1884 Living

   (2) Collette Pierre
      b. 1870 d. 1910

      Meshell Ignace, Kalispel Allottee 34, husband
      b. 9-14-1875 d. 9-6-38 Probate 66965-39

         Two children died in infancy

   (3) Mary Pierre, unallotted Kalispel
      b. 1879 d. 1919

      Meshell Ignace, Kalispel Allottee 34, husband
      b. 9-14-1875 d. 9-6-38 Probate 66965-39

      [1] Alexander Ignace, Kalispel Allottee 35
         b. 5-12-10 d. 11-18-43 Probate 9431-46

         Rosalie (Rosalia) Seymour Ignace, Kalispel Allottee 72, wife
         b. 7-4-15

2. Martina . . . Bigsmoke Pierre, Kalispel Allottee 64 (cont'd)

Pierre, unallotted Kalispel, First husband (cont'd)

(3) Mary Pierre, unallotted Kalispel (cont'd)

Meshell Ignace, Kalispel Allottee 34, husband (cont'd)

[1] Alexander Ignace, Kalispel Allottee 35 (cont'd)

Rosalie (Rosalia) Seymour Ignace, Kalispel Al. 72, Wife (cont'd)

-1- John Ignace, unallotted Kalispel N-1007
b. 1-7-32 Living

-2- Nancy Rose Ignace Nick, unallotted Kalispel N-1008
b. 1-20-34 Living

-3- Nellie Ignace Gorneau or Gourneau Totter, unal. Kalispel N-1009
b. 5-20-36 Living

[2] Annie Ignace Meshell, Kalispel Allottee 48
b. 7-5-06 Living

Charles Nick, Kalispel Allottee 49, second husband
b. 2-15-1850 d. 2-21-52 Probate 678-53

(4) Agatha (Pierre) Nick Isadore, Kalispel Allottee 40
b. 7-10-1895 d. 10-1-55 Probate 15655-56

Antoine Isadore, Coeur d'Alene Allottee 568, husband
b. 1886 d. 4-29-63 Probate D-35-64

[1] Mary Susan Isadore Nenema, Kalispel Allottee 41
b. 7-27-15 Living

[2] Philip Isadore, Kalispel Allottee 100
b. 2-18-30 d. 11-27-65 Probate E-49-66

Mavis (Quiltanenock) Isadore Andrews Whistocken, unallotted Colville N-4232, First wife, b. 3-12-32 Living

-1- Dolores (Quiltanenock) Isadore Nenema McGuire, unal. Kalispel N-1019, b. 9-19-51 Living (adopted out, Pend Oreille County, Washington 3-17-52)

2. Martina . . . Bigsmoke Pierre, Kalispel Allottee 64 (cont'd)

Charles Nick, Kalispel Allottee 49, second husband (cont'd)

(4) Agatha (Pierre) Nick Isadore, Kalispel Allottee 40 (cont'd)

Antoine Isadore, Coeur d'Alene Allottee 568, husband (cont'd)

[2] Philip Isadore, Kalispel Allottee 100 (cont'd)

Mavis . . . Whistocken, unal. Colville N-4232, first wife (cont'd)

-2- Marie Isadore Andrews, unallotted Colville N-4573
b. 8-20-52 Living

Rita Frances Chalwain Isadore Campbell, unal. Kalispel N-1045, second wife

-3- Duane Paul Isadore, unallotted Kalispel N-1021
b. 6-10-53 d. 6-10-72 Probate IP PO 12L 73 13

-4- Norma Eugenia (Jean) Isadore, unal. Kalispel N-1022
b. 8-10-55 Living

[3] Patrick Isadore, unallotted Kalispel N-1011
b. 10-6-31 Living

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14
b. 1863 d. 1-25-26 Probate 47645-27

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife
b. 1873 d. 2-25-28 Probate 5714-29

(1) Baptiste Bigsmoke, Kalispel Allottee 16
b. 3-30-1889 d. 4-7-55 Probate 16015-56

Lucy Oyackena Bigsmoke, Spokane Allottee 58, wife
b. 3-23-93 d. 9-15-65 Probate E-69-66

[1] Pierre (Peter) Bigsmoke, Kalispel Allottee 17, DECEDENT
b. 7-4-10 d. 6-21-71 Probate IP BI 038A 72

[2] Joseph Bigsmoke, Kalispel Allottee 18
b. 9-12-13 d. 9-30-33 W.O.I. Probate 66967-39

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14 (cont'd)

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife (cont'd)

(1) Baptiste Bigsmoke, Kalispel Allottee 16 (cont'd)

Lucy Oyackena Bigsmoke, Spokane Allottee 58, wife (cont'd)

[3] Mary Ann Bigsmoke Campbell, Kalispel Allottee 19
b. 9-27-15 d. 2-21-67 Probate G-184-67

Clarence Campbell, Spokane, husband
b. 1908

-1- Harry Henry Campbell, unallotted Spokane N-1573
b. 3-10-33 Living

-2- Elaine Matilda Campbell Fanning, unal. Spokane N-1574
b. 4-13-35 Living

-3- Ida Marie Campbell Gilbert, unal. Spokane N-1575
b. 5-25-37 Living

-4- Gordon Michael Campbell, unal. Spokane N-1576
b. 11-17-43 Living

-5- Jeannette Campbell Tellinghuisen, unal. Spokane N-1577
b. 12-1-45 Living

-6- Judy Agnes Campbell, unallotted Spokane N-1578
b. 11-8-47 Living

-7- Don Campbell, unallotted Spokane
b. 1949 d. infant

-8- Roger Allen Campbell, unal. Spokane N-1579
b. 11-28-50 Living

-9- Gary Wayne Campbell, unallotted Spokane N-1580
b. 3-28-53 Living

-10- Patricia Ann Campbell, unallotted Spokane N-1581
b. 6-8-56 Living

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14 (cont'd)

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife (cont'd)

(1) Baptiste Bigsmoke, Kalispel Allottee 16 (cont'd)

Lucy Oyackena Bigsmoke, Spokane Allottee 58 (cont'd)

[4] Thomas Daniel Bigsmoke, Kalispel Allottee 20
b. 7-23-17 d. 9-2-48 Probate 1792-50

Annie (Anna) Marie Eulopsen Bigsmoke Sherwood, Flathead Al. 2702, wife, b. 12-24-20 d. 10-19-68 Probate D-24-69

Margaret Mary Bigsmoke Finley, unal. Flathead U-4661
b. 10-9-43 Living

[5] Ellen Bigsmoke (Matt), Kalispel Allottee 21
b. 2-28-19 d. 3-29-48 Probate 15929-49

Albert Garrick, Kalispel Allottee 30, first consort *
b. 9-27-09 d. 1-19-52 Probate 10786-52

-1- Louise Garrick Becker, unallotted Kalispel N-1010
b. 3-29-35 Living

Patrick Finley, Flathead Allottee 2710, second consort *
b. 3-5-12

-2- Clara Finley Brown, unenrolled Flathead N-5064
b. 10-1-39 d. 11-27-71

Joseph H. Matt, Falthead Allottee 2993, husband
b. 5-28-17 Living

-3- Donald Eugene Matt, unallotted Kalispel N-1055
b. 5-2-42 Living

[6] Nellie Bigsmoke, Kalispel Allottee 22
b. 1921 d. 5-13-29

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* There is no evidence of cohabitation that would legitimate the children under 25 U.S.C. § 371.

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14 (cont'd)

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife (cont'd)

(1) Baptiste Bigsmoke, Kalispel Allottee 16 (cont'd)

Lucy Oyackena Bigsmoke, Spokane Allottee 58 (cont'd)

[7] Andrew Bigsmoke, Kalispel Allottee 23
b. 4-22-24 d. 5-16-67 Probate G-205-67

Lucy Woodcock, unallotted Flathead U-4462, wife
b. 1-10-31 Living

-1- James John Bigsmoke, unallotted Kalispel N-1026
b. 7-23-49 Living

-2- Janice C. Bigsmoke, unallotted Flathead U-4463
b. 1-17-52 d. 1959 or 1960

-3- Genevieve Marie Bigsmoke, unallotted Flathead U-4464
b. 2-7-54 Living

-4- Irvin M. Bigsmoke (name changed to Timothy John Rose), unal. Kalispel, b. 2-12-55 (adopted out, Superior Court, Cowlitz County, Washington, 5-18-59)

[8] Hazel Emma Bigsmoke Hunter, Kalispel Allottee 95
b. 1-27-27 Living

(2) Lucy (Mary) Bigsmoke Peuse, Kalispel Allottee 62
b. 3-2-03 d. 1-13-34 Probate 66907-39

Antoine Peuse, Kalispel Allottee 61, husband
b. 12-29-1899 Living

Louis Warren Peuse, Kalispel Allottee 63
b. 9-12-21 d. 1-17-60 Probate E-18-61

Josephine Woodcock Peuse, unallotted Flathead U-6719, wife
b. 6-23-26 d. 11-27-65 Probate D-220-67

Rosemary (Peuse) Grove Kuntz, unallotted Flathead U-4096
b. 8-17-52 Living (adopted out, Fourth Judicial District Court, Montana 2-10-53

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14 (cont'd)

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife (cont'd)

(3) Josephine (Sabina) Bigsmoke Ignace (Blackbear), Kalispel Al. 37
b. 7-15-1898 d. 7-23-60 Probate D-70-67 IP BI 182A 72

Joseph Ignace, Kalispel Allottee 36, husband
b. 7-12-1892 d. 12-28-65 Probate E-52-66

[1] John Ignace, unallotted Kalispel
b. 1920 d. 1922

[2] Alice Elizabeth Ignace, Kalispel Allottee 38
b. 4-14-22 Living

[3] Thomas Ignace, Kalispel Allottee 39
b. 3-29-24 d. 8-7-49 Probate 14640-51 W.O.I.

[4] Suzette Ignace, Kalispel Allottee 99
b. 3-17-29 d. 5-11-31 Probate E-51-66

[5] John Ignace #2, unallotted Kalispel
b. 1930 d. 1931

[6] Meshell Ignace, unallotted Kalispel
b. 2-7-33 d. 2-11-33

[7] Susan Ignace Finley, unallotted Kalispel N-1006
b. 9-30-35 Living

[8] David Ignace, unallotted Kalispel
b. 1-14-38 d. 2-12-38

[9] Dorothy Ignace, unallotted Kalispel
b. 1940 d. 1940

[10] Joseph Ignace, unallotted Kalispel
b. 1942 d. 1942 (1 yr. old)

(4) Mary Bigsmoke Tom, Kalispel Allottee 88
b. 1905 d. 10-4-31 Probate 33487-32

3. (Se-qua-ya) John Bigsmoke, Kalispel Allottee 14 (cont'd)

Susan Benewah Bigsmoke Smilt, Kalispel Allottee 15, wife (cont'd)

(4) Mary Bigsmoke Tom, Kalispel Allottee 88 (cont'd)

Willie Tom, Kalispel Allottee 87, husband
b. 5-2-1889 Living

[1] John Tom, Kalispel Allottee 107
b. 5-31-27 d. 11-5-30

[2] Adeline Tom Nomee, Kalispel Allottee 108
b. 12-1-29 Living

[3] David Tom, unallotted Kalispel
b. 1931 d. 11-10-31

EFFECT OF SENATE BILL NO. 201

PROPOSED SECTIONS 91A-2-102 AND 91A-2-103 OF THE UNIFORM PROBATE CODE

"91A-2-102. Share of Spouse. The intestate share of the surviving spouse is:

(1) if there is no surviving issue, the entire estate;

(2) if there is surviving only one (1) child, or the issue of one (1) child, one-half (1/2) of the intestate estate;

(3) if there are surviving more than one (1) child, or one (1) child and the issue of one (1) or more deceased children, one-third (1/3, of the intestate estate."

"91A-2-103. Share of heirs other than the surviving spouse. The part of the intestate estate not passing to the surviving spouse under section 91A-2-102, or the entire estate if there is no surviving spouse, passes as follows:

(1) to the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(2) if there are surviving several children, or one (1) child, and the issue of one (1) or more children, and any such surviving child dies under age, and not having been married, all the estate that came to such deceased child by inheritance from the decedent, in equal shares to the other children of the same

parent, and to the issue of any such other children who are dead, by representation; and if, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, to the issue of all other children of the same parent; and if all the issue are in the same degree of kinship to such child, they take equally, but if of unequal degree then those of more remote degree take by representation;

(3) if there is no surviving issue, to his parent or parents equally;

(4) if there is no surviving issue or parent, to the brothers and sisters and the children or grandchildren of any deceased brother or sister, by representation;

(5) if there is no surviving issue, parent, brother, sister, or children or grandchildren of a deceased brother or sister, to the next of kin, in equal degree, except that where there are two (2) or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearer ancestors must be preferred to those claiming through an anecestor more remote.

ACCORDING TO THE CIVIL LAW

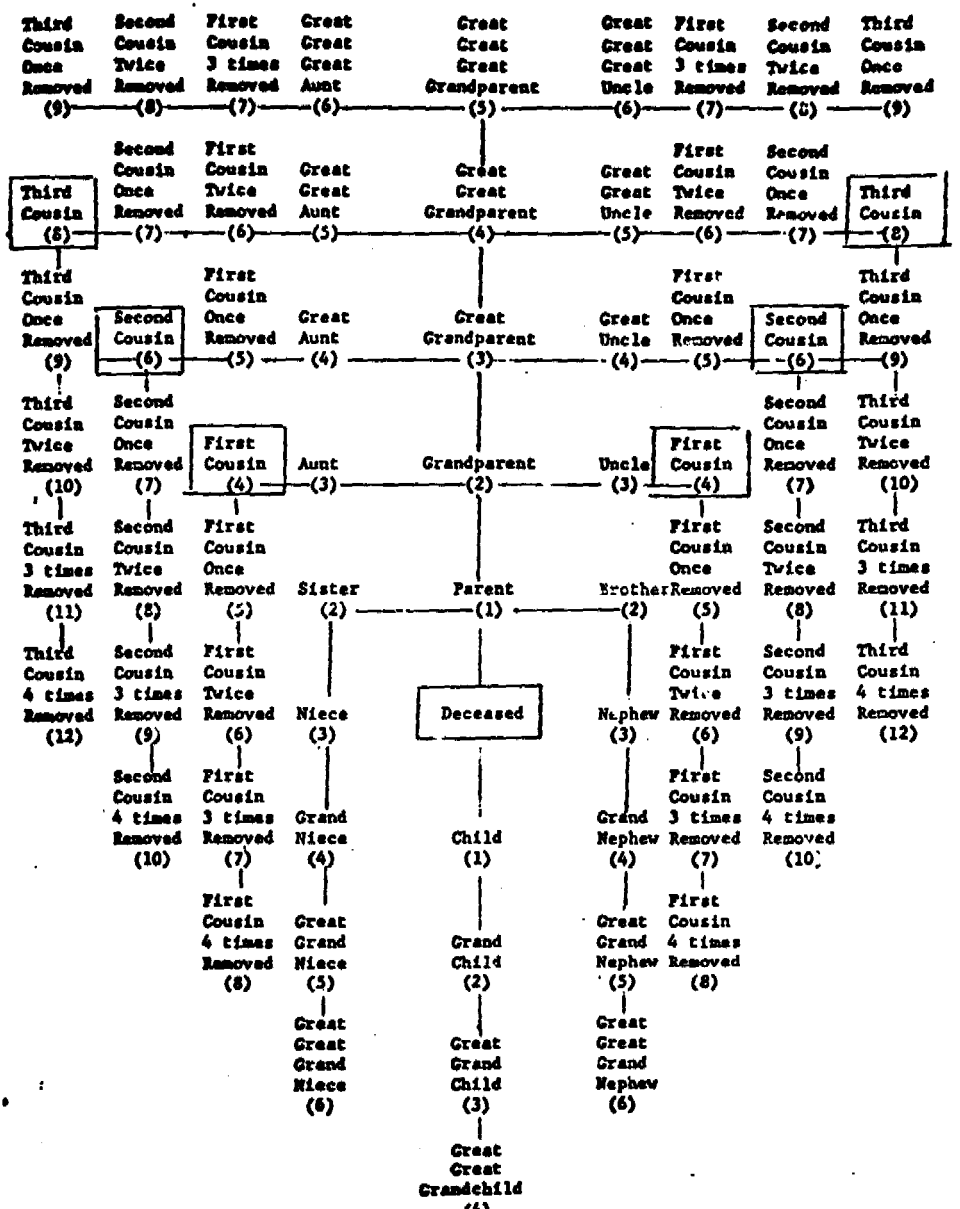

Exhibit No. 5

OHA 14
(1.72)

INDIAN PROBATE NO.

IP SA 26N 74

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF ALFRED BRONCHO)
)
) **ORDER DETERMINING HEIRS**
Deceased, SHOSHONE ALLOTTEE NO. 1559 OF THE FORT HALL INDIAN RESERVATION IN IDAHO)
)
)

This is a proceeding to determine the heirs and to settle the estate of Alfred Broncho, a deceased Indian, No. 1559 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held/concluded at Fort Hall, Idaho and on October 17, 1973.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Alfred Broncho whose last residence was in the State of Idaho was born Jan. 3, 1897 and died intestate at Fort Hall, Idaho on March 12, 1973:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Washakie, Utah, & Fort Hall Indian Reservation(s) listed on the inventory/(ies) attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(s) of Idaho and Utah are as follows: [§15-2-102(3), Idaho Code, as amended (1972); §74-4-5, Utah Code Annotated]

			Idaho	Utah
Marie Martin Broncho (born 4-3-04)	180 A-697	Wife,	ALL	3/9
Leona B. Houtz (born 1-7-30)	180-U-701	Daughter,		1/9
Vernetta B. Danny (born 8-2-31)	180-U-370	Daughter,		1/9
Delphina B. Martinez (born 1-18-34)	180-U-187	Daughter,		1/9
Alberta Broncho (born 1-21-38)	180-U-184	Daughter,		1/9
Kyle A. Broncho (born 7-3-43)	180-U-186	Son,		1/9

OHA 14
(1/72)

INDIAN PROBATE NO.

IP SA 26N 74

(Findings and Conclusions, continued)

Elaine B. Rosales (born 5-22-40)	180 U-185	Daughter,	1/9

The Superintendent or other officer in charge is to collect a probate fee of $ 75.00 pursuant to the Act of January 24, 1923, 25 USC 372 (1970), assessed on the estimated value of $ 18,272.84 of the land and personal property subject to the jurisdiction of this Department.

ORDER

NOW, THEREFORE, by virtue of the power and authority vested in the Secretary of the Interior under section 1 of the Act of June 25, 1910, as amended, 25 USC 372 (1970) and other applicable statutes, as delegated (211 DM 13.7; 35 F.R. 12081), **IT IS HEREBY ORDERED,** that the Superintendent or other officer in charge distribute the estate to the decedent's heirs named in the findings and conclusions herein. The distribution of interests remaining in trust or in restricted status is to be made subject to the burden of payment of the probate fee and to the payment of allowed claims. Those rights of (homestead) (dower) (curtesy) included in the findings and conclusions are recognized, and the interests to be distributed shall be and are subject to the burden thereof.

This decision is final for the Department unless a petition for rehearing is timely filed in accordance with 43 CFR §4.241 within 60 days from the date hereof as set forth in the notice attached hereto.

Done at Sacramento, California, on JUN 5 1974.

William E. Hammett
William E. Hammett
Administrative Law Judge

THE VALUE SHOWN IN THIS ORDER MAY BE AN ESTIMATE
It is made for the purpose of fixing the probate fees required by law to be collected and it may not necessarily represent the present marketable value of the property. Further investigation of value should be made before entering into any negotiations involving this property.

Address:

[redacted]
2800 Cottage Way, Rm. E-2740
Sacramento, CA 95825

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which decedent was known) Alfred Broncho

Tribe and allotment

Sex M or Identification No. Fort Hall Shoshone Allot. No. 1559

Date of birth 1/3/1897 Certificate attached: no

Death: Date 3/12/73 Place Marshall Road Ft. Hall Ind. Reservation Certificate Attached Yes

Last Place of Residence Fort Hall, Idaho Indian Reservation

Death determined to be: X Natural _____ Accidental _____ By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Marie Martin Broncho	11/5/28	Cere	4/3/04	living	No Divorce		180 A.697

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Leona B. Houtz	F	1/7/30	Marie M. Broncho	living	180 U-701
~~Delphina B. Martinez~~	~~F~~	~~1/18/34~~		~~living~~	~~180 U-187~~
Vernetta B. Denny	F	8/2/31	" "	living	180 U-370
Alberta Broncho	F	1/21/38	" "	living	180 U-184
Lyle A. Broncho	M	7/3/43	" "	living	180 U-186
Elaine B. Rosales	F	5/22/40	" "	living	180 U-185
Delphina (Delphine) B. Martinez	F	1/18/34	" "	living	180 U-187
Unnamed infant	M	Infant	" "	Prior to decedent	

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None of Record					

Value of Estate: $18,272.84

OHA 14
(1/72)

INDIAN PROBATE NO.

IP BI 549C 73

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF JANE GEORGE GRANT)
)
) **ORDER DETERMINING HEIRS**
Deceased, SHOSHONE-BANNOCK ALLOTTEE NO. 767)
OF THE FORT HALL INDIAN RESERVATION IN)
IDAHO)
)

This is a proceeding to determine the heirs and to settle the estate of Jane George Grant, a deceased Indian, No. 767 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held and concluded at Fort Hall, Idaho on July 25, 1973.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Jane George Grant whose last residence was in the State of Idaho was born 6-1-1899 and died intestate at Blackfoot, Idaho on September 26, 1972:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Fort Hall Indian Reservation listed on the inventory/~~(XXX)~~ attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(s) of Idaho Code §15-2-102 are as follows:

Hudson Grant (born 11-11-1894)	Fort Hall Allottee No. 731	Husband,	ALL

OFFICE OF HEARINGS AND APPEALS

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which decedent was known) Jane George Grant

Sex F Tribe and allotment or Identification No. Fort Hall Shoshone-Bannock Alt. 767

Date of birth 1900 6-1-1899 Certificate attached: No

Death: Date 9/26/72 Place Blackfoot, Idaho Bingham Memorial Hospital Certificate Attached Yes

Last Place of Residence Koyuse Road, Fort Hall Indian Reservation, ID.

Death determined to be: X Natural ____ Accidental ____ By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Hudson Grant	7/17/18	Cere.	11/11/9[illegible]	living	No Divorce		180 A. 731

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Gerald E. George	M	6/19/45	See Adoptions	living	180 U-637

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None of Record					

RECEIVED

JUN 18 1973

ADMINISTRATIVE LAW JUDGE
BILLINGS, MONTANA

Value of Estate: $15,360.00

OHA 14
(1/72)

INDIAN PROBATE NO.

IP SA 27N 74

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF HARRY FRANKLIN (HI BOY) LAVATTA)
)
Deceased, SHOSHONE ALLOTTEE NO. 492 OF THE)
FORT HALL INDIAN RESERVATION IN IDAHO)
)
)

ORDER DETERMINING HEIRS

This is a proceeding to determine the heirs and to settle the estate of Harry Franklin (Hi Boy) LaVatta, a deceased Indian, No. 492 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held and/concluded at Fort Hall, Idaho on October 17, 1973.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Harry Franklin (Hi Boy) LaVatta whose last residence was in the State of Idaho was born Dec. 12, 1907 and died intestate at Pocatello, Idaho on March 7, 1973:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Fort Hall Indian Reservation(s) listed on the inventory/~~(ies)~~ attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth date., and interests in the estate under the statutes of descent of the State~~(s)~~ of §15-2-102(3), Idaho Code, as amended (1972) are as follows:

Cecelia Osborne LaVatta (born 4-5-17)	180 U-850	Wife,	ALL

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which decedent was known) Harry Franklin (Hi Boy) LaVatta

Tribe and allotment

Sex M or Identification No. Fort Hall Shoshone Allot. No. 472

Date of birth 12/12/07 Certificate attached: No

Death: Date 3/7/73 Place Pocatello, Idaho Certificate Attached Yes

Last Place of Residence Agency Road, Fort Hall Indian Reservation, Idaho

Death determined to be: X Natural Accidental By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Unknown							
Cecelia Osborne LaVatta	8/15/51	Ceremony	4/5/17	living	No Divorce		180 U-850

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Louise Theresa/LaVatta	F	12/27/53	Cecelia O. LaVatta	living	180 U-651
Cecelia Althea/LaVatta	F	8/1/55	Cecelia O. LaVatta	Living	180 U-852

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None of Record					

Value of Estate: $6,000.00

OHA 14
(1.72)

INDIAN PROBATE NO. IP BI 535C 73

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF LAWRENCE BAGLEY

Deceased, Unallotted No. 81 Shoshone-Bannock Washoe of the Fort Hall Indian Reservation in Idaho

ORDER DETERMINING HEIRS

This is a proceeding to determine the heirs and to settle the estate of Lawrence Bagley _____, a deceased Indian, No. U-81 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held and concluded at Fort Hall, Idaho on July 26, 1973.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Lawrence Bagley _____ whose last residence was in the State of Idaho was born May 3, 1926 and died intestate at Blackfoot, Idaho on December 13, 1972:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located ~~not limited to~~ Idaho, Nevada and California listed on the inventory/(ies) attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(s) of Idaho Code §15-2-102(3); California §221 CPC; Nevada §134.040(2) NRS are as follows:

			Idaho	California	Nevada
Letha Tillotson Bagley (born 4-1-29)	F.H. U-82	Wife,	ALL	1/3 or 3/9	1/3 or 3/9
Lawrence A. Bagley, Jr. (born 8-24-48)	F.H. U-83	Son,		2/9	2/9
Michael W. Bagley (born 2-25-55)	FH U-85	Son,		2/9	2/9
Kevin L. Bagley (born 12-20-57)	F.H. U-86	Son,		2/9	2/9

The minors, Michael W. Bagley and Kevin L. Bagley, were duly represented in the proceedings herein by the appointment of Mrs. Letha Bagley as their guardian ad litem.

THE STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which decedent was known) LAWRENCE EAGLEY

Tribe and allotment
Sex M or Identification No. Fort Hall Shoshone-Bannock Hashoo U-81

Date of birth May 3, 1926 Certificate attached: No

Death: Date December 13, 1972 Place Bingham Memorial Hospital Blackfoot, Idaho Certificate Attached Yes

Last Place of Residence Route #3, Box 101, Blackfoot, ID - Ferry Butte Road

Death determined to be: X Natural ____ Accidental ____ By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Letha Tillotson Eagley	10/7/45	C.L.	4/1/29	Living	No Divorce		180 U-82

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Lawrence A. Eagley, Jr.	M	8/24/48	Letha Tillotson Eagley	Living	180 U-83
Steven Eagley	M	7/28/51	do.	7/11/71	180 U-84
Michael W. Eagley	M	2/25/55	do.	Living	180 U-85
Kevin L. Eagley	M	12/20/57	do.	Living	180 U-86

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
NONE					

RECEIVED
MAY 29 1973
ADMINISTRATIVE LAW JUDGE
BILLINGS, MONTANA

Value of Estate: $18,390.00

OHA 14
(1.74)

INDIAN PROBATE NO.

IP SA 28N 75

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF GLEN GENE BIRD

Deceased, WASHAKIE UTAH SHOSHONE UNALLOTTED OF THE FORT HALL INDIAN RESERVATION IN IDAHO

ORDER DETERMINING HEIRS

This is a proceeding to determine the heirs and to settle the estate of Glen Gene Bird, a deceased Indian, No. Unallotted of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held/concluded at Fort Hall, Idaho and on September 23, 1974.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Glen Gene Bird whose last residence was in the State of Idaho was born April 24, 1943 and died intestate ~~at~~ on Arbon Valley Road, Idaho on October 11, 1973:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Fort Hall Indian Reservation(s) listed on the inventory(~~ies~~) attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(~~s~~) of Idaho: Idaho Code §15-2-102(3)(1972, are as follows:

Rose Marie Devinney Bird (born 7-9-49)	180 U-376	Wife	All

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (...w all names by which decedent was known) Cordell Eagle

Tribe and allotment

Sex M or Identification No. Shoshone Indian U-323

Date of birth 6-01-50 Certificate attached: None

Death: Date 1-13-74 Place Near McCammon, Idaho Certificate Attached Yes

Last Place of Residence Fort Hall Indian Reservation

Death determined to be: Natural ____ XX Accidental ____ By Violence ____

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Velma R. Broncho	9-23-71	Cere.	5-09-53	Living	No Divorce		180 U-208

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Logan Eagle	M	7-07-72	Velma Rae Broncho	Living	180 Unal. Enr.

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None ~~of Record~~					

Value of Estate: $13,244.78

OHA 14
(1.72)

INDIAN PROBATE NO.

IP SA 18M 75

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF CORDELL EAGLE

Deceased, ERDSIONE UNALLOTTED NO. 323 OF THE FORT HALL INDIAN RESERVATION IN IDAHO

ORDER DETERMINING HEIRS

This is a proceeding to determine the heirs and to settle the estate of Cordell Eagle, a deceased Indian, No. U-323 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held/concluded at Fort Hall, Idaho and on September 24, 1974.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Cordell Eagle whose last residence was in the State of Idaho was born June 1, 1950 and died intestate ~~at~~ near McCammon, Idaho on January 13, 1974:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Fort Hall Indian Reservation (s) listed on the inventory/(~~is~~) attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(~~s~~) of Idaho: Idaho Code §15-2-102(3)(1972) are as follows:

Velma Rae Eagle (born 5-9-53)	180 U-208	Wife	ALL

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which deceased was known) Glen Gene Bird

Tribe and allotment

Sex M or Identification No. Unallotted Utah Shoshone Unal.

Date of Birth June 24, 1943 Certificate attached: _____

Death: Date October 11, 1973 Place Ashton Valley Road Certificate Attached Yes

Last Place of Residence Fort Hall Indian Reservation

Death determined to be: _____ Natural _____ X _____ Accidental _____ By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Rose Marie Devinney Bird	Abt. 1967	Tr.Ct.	7/09/49	Living	No Divorce		180 U-376

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
[redacted]derick Bird	M	9/26/66	Rose Marie Devinney Bird	Living	180 Unal
Glen Bird, Jr.	M	8/15/73	do.	Living	180 Unal

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None of Record					

Value of Estate: $15,199.75

OHA 14
(1.72)

INDIAN PROBATE NO.

IP SA 388 74

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

ESTATE OF DIETZ POWGAH, SR.

Deceased, SHOSHONE-BANNOCK ALLOTTEE NO. 515 OF THE FORT HALL INDIAN RESERVATION IN IDAHO

ORDER DETERMINING HEIRS

This is a proceeding to determine the heirs and to settle the estate of Dietz Pongah, Sr., a deceased Indian, No. 515 of the Fort Hall Indian Reservation.

Upon receipt of the notice of death, a hearing was duly held and concluded at Fort Hall, Idaho on October 19, 1973.

FINDINGS AND CONCLUSIONS based upon the evidence adduced are as follows:

The said Dietz Pongah, Sr. whose last residence was in the State of Idaho was born Nov. 17, 1903 and died intestate at Pocatello, Idaho on April 11, 1973:

At the date of death the decedent was possessed of that trust or restricted property, real and personal, located on the Fort Hall Indian Reservation as listed on the inventory and; attached, and other reporting documents; and

At death the decedent was survived by certain persons whose respective names, relationships, birth dates, and interests in the estate under the statutes of descent of the State(s) of Idaho [515-2-102(3), Idaho Code, as amended (1972)] are as follows:

Theresa Florine Marsh Pongah (born 10-14-16)	Owyhee, Nevada Shoshone-Paiute	Wife,	ALL

DATA FOR HEIRSHIP FINDING AND FAMILY HISTORY

NAME OF DECEDENT (Give all names by which decedent was known) Dietz Pongah, Sr.

Sex M Tribe and allotment or Identification No. Fort Hall Shoshone-Bannock Allottee No. 715

Date of birth November 17, 1903 Certificate attached: NO

Death: Date April 11, 1973 Place Pocatello, Idaho Certificate Attached Yes

Last Place of Residence Fort Sheepskin Road, Fort Hall Indian Reservation, Idaho

Death determined to be X Natural ____ Accidental ____ By Violence

MARRIAGES

Names	Married Date	Married How	Date of Birth	Date of Death	Divorced Date	Divorced How	Tribe & Al./ Id. #, or Non-Indian
Theresa Florine Farah Pongah	1/29/36	Cere	10/14/16	Living	No Divorce		Cuyhee, Nevada Shoshone-Paiute

CHILDREN (Show facts regarding illegitimacy and adoption under "Additional Information")

Names	Sex	Date of Birth	Name of Other Parent	Date of Death	Tribe & Al. or Ind. #
Jean Lorena Pongah	F	1/26/41	Theresa M. Pongah	Living	180 U-1133
[illegible] Ray Pongah	M	9/28/43	do	Living	180 U-1191
[illegible]na P. Broncho	F	3/6/47	do	Living	180 U-1192
Velma P. Redwoman	F	7/7/49	do	Living	180 U-1193
Steven E. Pongah	M	5/28/51	do	Living	180 U-1194
Theora P. Calloway	F	1/11/54	do	Living	180 U-1195
Elvin J. Pongah	M	4/4/55	do	Living	180 U-1196
Dietz Pongah, Jr.	M	9/24/56	do	Living	180 U-1197
4 small children			do	Infants	Unal.

CHILDREN OF DECEASED CHILDREN

Names	Sex	Date of Birth	Names of Both Parents	Date of Death	Tribe & Al. or Id. #
None					

Value of estate: $18,662.27

MINUTES OF THE MEETING
JUDCIARY COMMITTEE
FEBRUARY 4, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:35 a.m. in room 410 of the Capitol Building.

The following bills were discussed: SB 294
SB 172
SB 181
SB 201
SB 6

SB 294 Senate Bill 294 is a bill designed to replace SB 6 and was proposed by the Committee. There was no testimony.

SB 189 Tom Staples, Researcher for Senator Neil Lynch, District 42, and sponsor of the bill, stated the purpose fo the bill is to have absentee ballots and envelopes affirmed by the absentee voter. The bill would make it easier to register to vote and vote absentee.

Jo Ann Woodgerd, representing the Secretary of State, supported the bill, stating it removes notarization from application for an absentee ballot. She would like to see Section 7 deleted.

SB 172 Tom Staples, Researcher for Senator Neil Lynch, District 42, and sponsor of the bill, stated the purpose of the bill is to require the Attorney General to provide a summary of referred, initiative or constitutional amendment measures to include an explanation of the exact meaning of a vote for or against a measure.

Jo An Woodgerd, representing the Secretary of State, felt the Committee should extend the 100 word limit. She stated HB 419 is a similar measure.

The public hearing was closed and the Committee went into Executive Session.

SB 181 Bjarne Johnson, Great Falls, stated the provisions of SB 181 are covered under the Uniform Probate Code under the augmented estate provisions. He felt the bill would be a duplication and cause confusion.

SB 201 Bjarne Johnson, Great Falls, stated the Uniform Probate Code equalizes treatment of those families whose member died without or with a will. According to SB 201, the widow receives a child's portion of the estate; if the children are minor they must have a guardian appointed for each child and also a bond. Exemptions for the widow are set in the Uniform Probate Code and go to her under any circumstances.

Mr. Johnson commented on SB 249 at the request of the Chairman.

SB 6 SENATOR GREELY MOVED SB 6 DO NOT PASS. AFTER DISCUSSION, SENATOR GREELY WITHDREW HIS MOTION.

SB 294 SENATOR CETRONE MOVED SB 294 DO PASS. SENATOR ROBERTS MOVED TO AMEND PAGE 1, LINE 11, BY STRIKING "--PATRONIZING A PROSTITUTE". THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE. THE MOTION TO PASS SB 294 PASSED ON A ROLL CALL VOTE WITH SENATORS DRAKE, TURNAGE AND GREELY VOTING NO.

SB 6 SENATOR GREELY MOVED SB 6 DO NOT PASS. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

There being no further business, the meeting adjourned to reconvene Wednesday, February 5, at 9:30 a.m.

CHAIRMAN

Gordon Swanberg, representing the Montana Railroad Association, stated he does not support the combination of Consumer Counsel and the Citizen's Rights Committees. If they were to be separate and clearly defined, he would then support.

Gene Phillips, representing Pacific Power and Light and Telephone Systems, would support two separate committees.

Mr. Corette, speaking on behalf of Leonard Eckle, representing the Montana Truckers Association, stated opposition to the bill by the Truckers.

Senator Towe assumed the chair.

SB 221 --- Senator Drake, District 16 and sponsor of the bill, stated this bill is the Oregon no-fault law.

Tom Harrison, representing the Montana Trial Lawyers Association, stated the bill provides first party benefits without regard to fault and does not exlude the citizen's right to redress for an injury. He said there are 3 no-fault bills in the House but he feels this is best. He suggested the tort system could be left out and the no-fault section alone passed. A threshold could be inserted at a later session. He supported the bill with possible amendments.

OPPONENTS

Chad Smith, representing the American Mutual Insurance Alliance, stated the insurance industry supports no-fault insurance. He is working with the House to try to devise a good plan with no increase in premiums. He stated actuarial expenses could run as high as 50%. He supported consideration of either H.B. 651 or 111.

Boyce Clark, representing the Independent Insurance Agents of Montana, stated there are three bills in the House and he prefers them to this one.

The public hearing was closed and the Committee met in Executive Session.

SB 181 --- SENATOR TURNAGE MOVED SB 181 DO PASS. It was decided to consider SB 201 before voting on SB 181.

SB 201 --- SENATOR TURNAGE MOVED SB 201 DO PASS. A ROLL CALL VOTE RESULTED IN A TIE VOTE AND SB 201 LEFT COMMITTEE WITHOUT RECOMMENDATION.

There being no further business, the meeting adjourned to reconvene following adjournment Thursday, February 20.

Chairman

STANDING COMMITTEE REPORT

February 20 19 75

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 201

Respectfully report as follows: That SENATE Bill No. 201

~~DO PASS~~ WITHOUT RECOMMENDATION

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE BILL NO. 201

INTRODUCED BY TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION TO AND DISTRIBUTION OF ESTATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 91A-2-102, R.C.M. 1947, is amended to read as follows:

"91A-2-102. Share of spouse. The intestate share of the surviving spouse is:

(1) if there is no surviving ~~issue, the entire intestate estate~~ OR IF THERE ARE SURVIVING ISSUE ALL OF WHOM ARE ISSUE OF THE SURVIVING SPOUSE ALSO, THE ENTIRE REMAINING ESTATE;

(2) ~~if there are surviving issue all of whom are issue of the surviving spouse also, the first fifty thousand dollars ($50,000), plus one-half (1/2) of the balance of the intestate estate~~ IF THERE ARE SURVIVING ISSUE ONE (1) OR MORE OF WHOM ARE NOT ISSUE OF THE SURVIVING SPOUSE, AS FOLLOWS:

(A) if there is surviving only one (1) SUCH child, or the issue of one (1) SUCH child, one-half (1/2) of the intestate estate;

~~(3)~~(B) ~~if there are surviving issue one (1) or more of whom are not issue of the surviving spouse, one-half (1/2) of the intestate estate;~~ if there are surviving more than one (1) SUCH child, or one (1) SUCH child and the issue of one (1) or more deceased children, one-third (1/3) of the intestate estate."

Section 2. Section 91A-2-103, R.C.M. 1947, is amended to read as follows:

"91A-2-103. Share of heirs other than surviving spouse. The part of the intestate estate not passing to the surviving spouse under section 91A-2-102, or the entire intestate estate if there is no surviving spouse, passes as follows:

(1) to the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(2) if there are surviving several children, or one (1) child, and the issue of one (1) or more children, and any such surviving child dies under age, and not having been married, all the estate that came to such deceased child by inheritance from the decedent, in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by representation; and if, at the death of such child, who dies under age, not having been

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married, all the other children of his parents are also dead, and any of them have left issue, to the issue of all other children of the same parent; and if all the issue are in the same degree of kinship to such child, they take equally, but if of unequal degree then those of more remote degree take by representation;

~~(2)~~ (3) if there is no surviving issue, to his parent or parents equally;

~~(3)~~ (4) if there is no surviving issue or parent, to the brothers and sisters and the ~~issue of each deceased brother or sister by representation; if there is no surviving brother or sister, the issue of brothers and sisters take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree then those of more remote degree take by representation~~ children or grandchildren of any deceased brother or sister, by representation;

~~(4) if there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote~~

~~degree take by representation; and the other half passes to the maternal relatives in the same manner, but if there be no surviving grandparent or issue of grandparent on either the paternal or the maternal side, the entire estate passes to the relatives on the other side in the same manner as the half;~~

(5) if there is no surviving issue, parent, ~~or issue of a parent, grandparent or issue of a grandparent,~~ brother, sister, or children or grandchildren of a deceased brother or sister, ~~the estate passes~~ to the next of kin, in equal degree, except that where there are two (2) or more collateral kindred, in equal degree, but claiming through different ancestors, those who claim through the nearer ancestors must be preferred to those claiming through an ancestor more remote."

-End-